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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,403	03/05/2002	Rene Nuesser	10191/2185	6825

26646 7590 05/03/2004

KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

EXAMINER

TONG, NINA C

ART UNIT	PAPER NUMBER
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2632

DATE MAILED: 05/03/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/070,403

Applicant(s)

NUESSER ET AL.

Examiner

Nina Tong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 15,16,18-21,23-26,28-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Serenbetz (4,894,654) in view of Heitschel et al. (Re 36,703) and Pinnow (4,931,789).

Regarding claims 15,16,18-21,23-26,28-31, Serenbetz discloses a device for reserving parking spaces and/or security, which comprises the parking barricade with remote transceiver 232,240, which is remotely controlled by a remote controller 29 on the vehicle.

Serenbetz fails to specify the claimed changeable code by an input and a plurality of authorized codes.

However, it is well-known in the art of providing the changeable code via an input with a display (using password is inherently included) by the operator as taught by Pinnow. It is also well-known in the art of providing one receiver recognized a plurality of user codes from the respective transmitter with a computing system as taught by Heitschel et al.. It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ both the above teaching of Pinnow and Heitschel et al. in Serenbetz for changing the code via an input

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with a display (using password is inherently included) by the user and for recognized a plurality of user codes from the respective transmitter for convenience and security purpose.

Regarding claims 17,22,27, as long as the wireless communication system is provided, employing any kind of well-known wireless communication system would not constitute an inventive step but an obvious design choice. It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the well-known bluetooth as the wireless communication system in the above combination for providing the same function as desired and a better system.

Response to Arguments

3. Applicant's arguments filed 02/05/04 have been fully considered but they are not persuasive.

4. Regarding applicant's arguments, in response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within *the level of ordinary skill at the time the claimed invention was made*, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). The applicant fails to specify how the combination is improper beside the hindsight reasons. Also, it does not require to provide the

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motivation or suggestion in the reference/prior art as long as the knowledge is within the level of ordinary skill at the time the claimed invention was made. The references to Pinnow and Heitschel et al. already show the well-known changeable code by password and the well-known plurality of user codes for a receiver. In order to provide a better and more security system in Serenbetz, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Serenbetz's system with a changeable code by password in the remote control and providing a plurality of user codes for a receiver as taught by Pinnow and Heitschel et al.. This way, it increases the security system and it could be used for plurality of users instead of a single user for convenience.

In addition, the applicant argued that the Examiner did not provide evidence to support the password using in the changing code. However, the Examiner take official notice that it is well-known in the art that in the security system that it would require to enter the password (to identify the user) in order to get into the system/electronic device to make any changes, such as a code. For example, the computer, cellular phone, PDA, anti-theft system, etc. all provides the security system which requires the user to enter the password to identify the user before allow any changes is made, such as changing password/code, preference, profile, setting, using the device, etc.. Therefore, the inherency of inputting password to change a code is proper. Even if the applicant disagreed, without the password, which would defeat the purpose of changing the code which is originally used for the security purpose.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nina Tong whose telephone number is 703-305-4831. The examiner can normally be reached on Mon-Wed. (9:30 -8:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu can be reached on 703-308-6730. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nina Tong
Primary Examiner
Art Unit 2632

Nina Tong
April 30, 2004

